

**FILED**

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

DEC 28 2005

NEBRASKA DEPARTMENT  
OF INSURANCE

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE,

PETITIONER,

VS.

BANKERS LIFE AND CASUALTY  
COMPANY,

RESPONDENT.

CONSENT ORDER

CAUSE NO. C-1546

Jan 03, 2006 ACCT# 8521 \$1,500.00  
NO-INVOICE 9400 TRAN# 1537029  
BANKERS LIFE AND CASUALTY COMPANY  
CHECK# 3228528

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its representative, Martin W. Swanson and Bankers Life and Casualty Company, ("Respondent"), mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to Neb. Rev. Stat. §44-101.01, §44-303 and §44-4047 et seq.
2. Respondent is licensed as a foreign insurer under the laws of Nebraska at all times material hereto.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. Bankers Life and Casualty Company, Cause Number C-1546 on November 15, 2005. A copy of the petition was served upon the Respondent, at the Respondent's address registered with the Department by certified mail, return receipt requested.

2. The petition alleges that Respondent violated Neb. Rev. Stat. §44-502.05 and §44-319 as a result of the following conduct:

- a. Nicholas Cone (Cone) is a licensed resident insurance producer appointed with Respondent in Nebraska. On May 31, 2005, Marvin and Rebecca Johnson gave Cone a \$180.00 check as the initial premium for two replacement life insurance policies.
- b. On July 11, 2005, the Johnsons sent a letter to Bankers Life at their Chicago address requesting that the policies be cancelled and their money refunded. The policies had not yet been delivered and included a "free look" period allowing cancellation and refund of premiums within 20 days of delivery of the policies.
- c. The policies were not cancelled as a result of the July 11<sup>th</sup> letter. The underwriters called the Omaha branch and were told to proceed. The Omaha branch of Bankers Life claims no knowledge of this letter.
- d. On August 4, 2005, agent Colleen Kapels attempted to deliver the policies, but the Johnsons told her they wanted to cancel the policies. The Johnsons also called Bankers Life and were told that the policies would be cancelled and the premiums refunded.
- e. The Johnson's refund was not processed until September 9, 2005. This undue delay is a failure to refund premiums pursuant to Neb. Rev. Stat. §44-502.05 and a breach of fiduciary duty under Neb. Rev. Stat. §44-319.

3. Respondent was informed of the right to a public hearing. Respondent waives that right, and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving its right to a public hearing, Respondent also waives its right to confrontation of witnesses, production of evidence, and judicial review.

4. Respondent neither admits nor denies the allegations contained in the Petition and restated in Paragraph #2 above. Respondent agrees to consent to the conclusions of law set forth herein and agrees to the penalties levied in order to settle this matter.

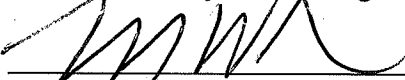
### CONCLUSIONS OF LAW

The conduct of Respondent, as alleged above, constitutes a violation of Neb. Rev. Stat. §44-502.05 and §44-319.

### CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed to by Respondent, that Respondent shall pay an administrative fine in the amount of \$1,500 dollars (\$1500). Respondent shall pay the \$1500 fine within thirty days of the approval of this consent order by the Director or his designee. If Respondent fails to pay the \$1,500 fine within thirty days after approval of the consent order by the Director or his designee, Respondent shall be subject to additional fines and penalties. The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling the Respondent or the Department to make application for such further orders as may be necessary.

In witness of their intention to be bound by this Consent Order, each party has executed this consent order by subscribing their signatures below.



Martin W. Swanson, #20795  
Department of Insurance  
941 "O" Street, Suite 400  
Lincoln, Nebraska 68508  
(402) 471-2201

28 Dec 05  
Date

\_\_\_\_\_  
Bankers Life and Casualty Company

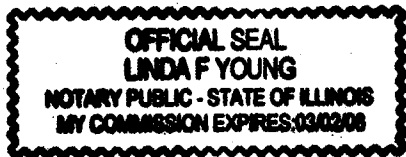
\_\_\_\_\_  
Date

Jim Valdez  
Attorney

12-21-05  
Date

State of ILLINOIS )  
 ) ss.  
County of COOK )

On this 21 day of December, 2005, Bankers Life and Casualty Company personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his voluntary act and deed.



Linda F. Young  
Notary Public

#### CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. Bankers Life and Casualty Company, Cause No. C-1546.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

L. Tim Wagner  
L. TIM WAGNER  
Director of Insurance

12/28/05  
Date

#### CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was sent to the Respondent, 222 Merchandise Mart Plaza, Chicago, Illinois 60654-2001, by certified mail, return receipt requested, on this 21 day of January, 2005.

Tracy A. Franken